

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID C. RIVERS,

Plaintiff,

No. CIV S-04-2524 GEB EFB P

vs.

E. ROSZCO, et al.,

Defendants.

ORDER

Plaintiff is a prisoner without counsel suing for alleged civil rights violations. *See* 42 U.S.C. § 1983. Defendants, through counsel, have filed a request for an extension of time to file and serve a motion for summary judgment. Counsel asserts that his workload makes it impossible to file a motion by the date set in the November 19, 2007, order amending the December 18, 2006, scheduling order. The court construes the request as one to modify the amended schedule.

A schedule may be modified upon a showing of good cause. Fed. R. Civ. P. 16(b). Good cause exists when the moving party demonstrates he cannot meet the deadline despite exercising due diligence. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

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1 Pursuant to the November 19, 2007, order, dispositive motions must be filed no later than
2 January 16, 2008. As noted above, counsel lists various tasks completed in November and
3 December as well as remaining obligations on his calendar, and asserts that he cannot possibly
4 file and serve a dispositive motion before March 31, 2008. The application notes that discovery
5 is complete, implying readiness to prepare a motion. However, the application does not address
6 diligence in attempting to comply with the order to file a dispositive motion no later than January
7 16, 2008 nor otherwise demonstrate that the issues involved in this case warrant an extraordinary
8 amount of time to address in a summary judgment motion.

9 Accordingly, the application is granted in part, and denied in part. The January 16, 2008,
10 deadline is hereby enlarged by thirty days. Defendants' dispositive motions, if any, shall be filed
11 and served by February 11, 2008.

12 So ordered.

13 Dated: January 10, 2008.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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